

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2004-167-C - ORDER NO. 2004-453  
OCTOBER 11, 2004

IN RE: Application of Clarion Telecommunications,     ) ORDER  
Inc. for a Certificate of Public Convenience     ) GRANTING  
and Necessity to Provide Resold Local     ) APPLICATION  
Telecommunications Services within the State     )  
of South Carolina     )

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of Clarion Telecommunications, Inc. (“Clarion” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to operate in South Carolina as a reseller of telecommunications services between and among locations within the State of South Carolina as a facilities based local exchange telecommunications service provider. The Company’s Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2003) and the Regulations of the Commission. By its Application, Clarion also requests a flexible rate structure for its local exchange service offerings consistent with the principles and procedures set forth in Commission Order No. 98-165 in Docket No. 97-467-C.

Clarion requested in its Application that it be granted a waiver of the requirements that it publish a telephone directory under 26 S.C. Code Ann. Regs. 103-631 and the requirement that it file a service area map with the Commission under 26 S.C. Code Ann. Regs. 103-612.2.3 as it will only be operating as a reseller under contracts with existing

Incumbent Local Exchange Carriers (“ILECs”). Finally, Clarion requests a waiver of the requirement that it maintain its books and records in conformance with the Uniform System of Accounts (“USOA”) and requests that it alternatively be permitted to maintain its books of accounts in accordance with Generally Accepted Accounting Principles (“GAAP”).

The Commission’s Executive Director instructed Clarion to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Clarion’s Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Clarion complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. The South Carolina Telephone Coalition (“SCTC”) filed a Petition to Intervene in this matter. Prior to a hearing being held in this matter, Clarion and the SCTC entered into a Stipulation on July 24, 2004, and filed with this Commission on July 28, 2004, which is incorporated in this Order as detailed below.

A hearing was convened on September 1, 2004, at 2:30 p.m. in the Commission’s Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable Randy Mitchell, Chairman, presided. Clarion was represented by Graham P. Powell, Esquire. F. David Butler, General Counsel, represented the Commission Staff.

Edward Anson, President of Clarion, appeared and testified in support of the Application. The record reveals that Clarion is a South Carolina corporation which is headquartered in Summerville, South Carolina. According to Mr. Anson, Clarion seeks authority to offer on a resale basis within South Carolina, local exchange

telecommunications services. Mr. Anson further testified that Clarion was seeking authority from the Commission to provide resold competitive local exchange telecommunications throughout the State of South Carolina in the areas served by current ILECs in the non-rural areas of South Carolina. Mr. Anson further testified that Clarion would offer its local services on a prepaid basis to residential customers which otherwise may be unable to obtain local telephone service. Clarion does not intend to install any transmission or switching facilities in South Carolina at this time and will engage in “switchless” resale of services. Mr. Anson explained the Company’s request for authority and the record reveals the Company’s services, operations, and marketing procedures.

Mr. Anson also testified regarding Clarion’s technical, financial, and managerial resources to provide the services for which it seeks authority to provide. Mr. Anson offered that he has worked as an Information Technology consultant to several wireless telecommunications service providers in the Charleston area. Mr. Anson also previously worked as the IT representative and employee of a former CLEC based in the Charleston area that is now out of business. Other members of the Clarion management team include Joseph Cantrell who works as the Vice President and Treasurer of Clarion and has previous experience in the telecommunications industry. Finally, Mr. Anson testified that Clarion will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders.

Mr. Anson also offered that approval of Clarion’s Application would serve the public interest by allowing customers to obtain very competitive rates and services, by

promoting efficient use of the underlying network, by increasing access revenues for underlying carriers, and by increasing tax revenue for the State of South Carolina.

Finally, Clarion requested that it be exempt from any record-keeping rules or requirements that the Company be required to maintain its financial records in conformance with the USOA. Mr. Anson testified that it utilizes GAAP and that the Commission will therefore have a reliable means by which to evaluate the operations. He further requested that Clarion be exempt from any requirements that the Company publish and distribute telephone directories under Regulation 103-631 and service area maps. Clarion will make arrangements with the incumbent ILECs whereby the names of its customers will be included in the directories published by the ILEC and these directories distributed to Clarion customers.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

#### **FINDINGS OF FACT**

1. We find that Clarion is organized and registered as a corporation under the laws of the State of South Carolina with the South Carolina Secretary of State and is headquartered in Summerville, South Carolina.

2. We find that Clarion intends to operate as a non-facilities based reseller of local telecommunications services and wishes to provide its services in South Carolina.

3. We find that Clarion has the experience, capability, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280(B)(1) (Supp. 2003).

4. We find that Clarion will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280(B)(4) (Supp. 2003).

5. The Commission finds that Clarion's provision of service will not adversely impact the availability of affordable local exchange service. S.C. Code Ann. Section 58-9-280 (B)(3) (Supp. 2003).

6. We find that Clarion will provide services which will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280(B)(2) (Supp. 2003).

7. The Commission finds that the provision of local exchange service by Clarion "does not adversely impact the public interest. S.C. Code Ann. Section 58-9-280(B)(5) (Supp. 2003).

8. We find that the issuance of the authority requested by Clarion is in the best interest of the citizens of the State of South Carolina.

#### **CONCLUSIONS OF LAW**

1. The Commission concludes that Clarion possesses the managerial, technical, and financial resources to provide the competitive local exchange telecommunications services as described in its Application.

2. The Commission concludes that Clarion's "provision of service will not adversely impact the availability of affordable local exchange service."

3. The Commission concludes that Clarion will participate in the support of universally available telephone service at affordable rates to the extent that Clarion may be required to do so by the Commission.

4. The Commission concludes that Clarion will provide services which will meet the service standards of the Commission.

5. The Commission concludes that approval of Clarion's Application to provide local exchange telecommunications services in South Carolina will serve the public interest by enhancing competition in the State of South Carolina by offering additional service offerings to South Carolina's consumers and by providing for efficient use of existing telecommunications resources.

6. The Commission concludes that the provision of local exchange service by Clarion will not otherwise adversely impact the public interest.

7. The Commission concludes that the issuance of the authority to provide local exchange telecommunications services as requested by Clarion, and as set forth in its Application, is in the best interests of the citizens of the State of South Carolina.

8. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to Clarion to provide resold competitive intrastate local exchange telecommunications services, including optional features.

9. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to Clarion to provide competitive resold local exchange services only to customers located in the non-rural areas of the state. The terms of the stipulation between Clarion and SCTC are approved, and adopted as a part of this Order

and is attached hereto as Order Exhibit 1. Any future proposal by Clarion to provide local telecommunications service to rural areas is subject to the terms of this stipulation.

10. The Commission concludes that Clarion's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to New South Communications in Commission Order No. 98-165, Docket No. 97-467-C. The Commission adopts for Clarion's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, Clarion's local exchange service filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity is granted to Clarion to provide via resale competitive intrastate local exchange telecommunications services, including optional services from incumbent local exchange carriers. Clarion's local exchange service offerings shall be provided in compliance with the Stipulation between Clarion and the SCTC.

2. The terms of the Stipulation between Clarion and the SCTC are approved, and adopted as a part of this Order. (The Stipulation is attached to this Order as Order Exhibit 1 and is hereby incorporated as a part of this Order.) Any proposal to provide

competitive intrastate local exchange telecommunications service to rural service areas is subject to the terms of the Stipulation.

3. Clarion shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. Clarion's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for Clarion's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, Clarion's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

4. Clarion shall resell the services of only those LECs authorized to do business in South Carolina by this Commission. If Clarion changes underlying carriers, it shall notify the Commission in writing.

5. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and



repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Clarion shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The Company shall utilize the “Authorized Utility Representative Information” form which can be located at the Commission’s website at [www.psc.state.sc.us/reference/forms.asp](http://www.psc.state.sc.us/reference/forms.asp) to file the names of these representatives with the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

6. Clarion shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

7. Clarion shall comply with Title 23, Chapter 47, South Carolina Code of Laws Ann., which governs the establishment and implementation of a “Public Safety Communications Center,” which is more commonly known as a “911 system” or “911 service.” Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Clarion to contact the appropriate authorities regarding 911 service in the counties and cities where Clarion will be operating. Contact with the appropriate authorities is to be made before providing voice or dial tone telephone service in South Carolina. Accompanying this

Order is a memo from the State 911 Office of the Office of Research & Statistics of the South Carolina Budget and Control Board. This memo provides information about contacting County 911 Coordinators. By this Order and prior to providing voice or dial-tone services within South Carolina, Clarion is directed to contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

8. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

9. Clarion shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipts reports will necessitate the filing of intrastate information. Therefore, Clarion shall keep financial records on an intrastate basis for South Carolina in order to comply with the Commission's requirements of filing an annual report and a gross receipts report. The proper form for filing annual financial information for the annual report may be found on the Commission's website at [www.psc.state.sc.us/reference/forms.asp](http://www.psc.state.sc.us/reference/forms.asp). The title of this form is "Annual Report for CLECs" and/or "Annual Report for Interexchange Companies." The Company shall file the annual report form with the Commission by April 1<sup>st</sup> of each year.

Commission gross receipts forms are due to be filed with the Commission no later than August 31<sup>st</sup> of each year. The appropriate form for remitting information for gross

receipts is entitled “Gross Receipts Form for Utility Companies” and may also be found on the Commission’s website at [www.psc.state.sc.us/reference/forms.asp](http://www.psc.state.sc.us/reference/forms.asp).

Additionally, pursuant to the Commission’s regulations, the Company shall file a “CLEC Service Quality Quarterly Report” with the Commission. The proper form for this report can be found at the Commission’s website at [www.psc.state.sc.us/reference/forms.asp](http://www.psc.state.sc.us/reference/forms.asp). These “CLEC Service Quality Quarterly Reports” are required to be filed within 30 days of the end of each calendar quarter.

10. The Federal Communications Commission (“FCC”) in July of 2000 required all telecommunications carriers throughout the United States to implement three-digit, 711, dialing for access to all Telecommunications Relay Services (TRS). The Commission issued a memorandum in March of 2001 instructing all South Carolina telecommunications carriers to implement the service completely by October of 2001. All competitive local exchange carriers (CLECs) and incumbent local exchange carriers (ILECs) were instructed to include language in their tariffs introducing 711 as a new service offering with deployment by July 1, 2002, and to translate 711 dialed calls to 1-800-735-2905. All Payphone Service Providers (PSPs) were instructed to modify their programmable phones to translate calls dialed as 711 to their assigned TRS toll free number 1-800-735-2905 in order to route 711 calls to the TRS provider before October 1, 2001. Additionally, telephone directories were required to be updated, and bill inserts promoting 711 were also required. This Company must comply with these mandates as applicable. Complete information on compliance with this FCC and Commission

requirement may be found on the Commission's website at [www.psc.state.sc.us/reference/forms.asp](http://www.psc.state.sc.us/reference/forms.asp).

11. For good cause shown, Clarion is granted a waiver and is hereby authorized to keep its books and financial records in accordance with Generally Accepted Accounting Principles rather than the Uniform System of Accounts method.

12. For good cause shown, Clarion is granted a waiver of the requirements that the Company publish and distribute a directory under 26 S.C. Code Ann. Regs. 103-631 and that it file service area maps with the Commission. Clarion is ordered to contact the incumbent ILECs to ensure that the Company's customers are included in the applicable directory.

13. For good cause shown, Clarion is granted a waiver of the requirement that it file maps of exchange service areas under 26 S.C. Ann. Regs. 103-612.2.3.

14. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/  
Randy Mitchell, Chairman

ATTEST:

/s/  
G. O'Neal Hamilton, Vice Chairman

(SEAL)